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AUG 23 2010

Ref: 8EPR-N

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

RE: EPA Comments on Final Environmental Impact Statement, OEP/DG2E/Gas 1, Kern River Gas Transmission Company, Apex Expansion Project, Docket No. CP10-14-000, CEQ #20100277

Dear Secretary Bose:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, *et seq.*, and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the July 2010 Final Environmental Impact Statement (FEIS) for the Kern River Gas Transmission Company (Kern River) Apex Expansion Project. This FEIS was prepared by the Federal Energy Regulatory Commission (FERC) to assess potential environmental impacts associated with the construction and operation of the Apex Expansion Project in portions of Wyoming, Utah, and Nevada. In a May 13, 2010 letter, EPA provided comments on the March 2010 Draft Environmental Impact Statement (DEIS) for the project.

The proposed expansion would allow transport of an additional 266 million cubic feet per day of natural gas from existing receipt points in southwestern Wyoming to existing delivery connections in southern Nevada. The proposal is to construct and operate approximately 27.6 miles of 36-inch-diameter natural gas pipeline (termed the "Wasatch Loop"), with approximately 20 of those miles (or about 71% of the proposed route) being collocated with existing rights-of-way. This expansion would extend southwest in Utah from Morgan County, through Davis County to Salt Lake County. One new 30,000 horsepower compressor station, the Milford Compressor Station, would be built in Beaver County, Utah. Modifications would be necessary at four existing compressor stations, including installation of additional compression at Coyote Creek Compressor Station in Uinta County, Wyoming, Elberta Compressor Station in Utah County, Utah, and Dry Lake Compressor Station in Clark County, Nevada, and replacement of an existing compressor unit at Fillmore Compressor Station in Millard County, Utah. Other above ground facilities included in the proposal are six mainline valves (four new and two existing that would require modifications), three pig launchers and two pig receivers.

As discussed in the March 2010 DEIS, construction and operation of the proposed project would have disturbed approximately 1,013 acres of land, including impacts to two areas afforded special protection – Mueller Park Roadless Area and the Hogsback Roadless Area – within the Uinta-Wasatch-Cache National Forest (UWCNF). Based on recommendations made on the DEIS, the proposed project has been revised to incorporate variations in the pipeline route known as the Mueller Park Variation and the North Salt Lake III Variation. The Mueller Park Variation results in reduced impacts to the UWCNF, including elimination of impacts to the Hogsback Roadless Area and reduced impacts to the Mueller Park Roadless Area. The North Salt Lake III Variation results in reduced impacts since it is shorter than the originally proposed segment, would be collocated more with existing right-of-way, and would avoid crossing historical sites in the North Salt Lake City area. We agree that these route variations are environmentally preferable.

In a May 13, 2010 letter, EPA provided comments on the DEIS for this project. In particular, we expressed concerns related to missing information and analysis, as well as concerns with impacts to water resources, vegetation, wildlife and special status species, and air quality. In large part, we believe the FEIS has adequately addressed our concerns.

Information and Analysis

The FEIS includes, or provides the status of, the numerous missing survey reports, additional data, and final appendices noted in the DEIS. However, not all surveys were completed for the northern leopard frog due to high flood conditions in locations identified as having potentially suitable breeding habitat. These areas were intended to be resurveyed when flood conditions subsided. In addition, it appears that the adequacy of the new Appendix M, Biological Resources Mitigation Plan, has not been fully determined by the relevant State and Federal agencies consulted during its development. We recommend that all necessary information, analyses, and plans should be finalized and incorporated into the FEIS and/or Record of Decision (ROD) for full public disclosure of impacts before construction begins.

Water Resources

Surface Water: The Apex Expansion Project would cross 21 waterbodies, including 12 perennial, seven intermittent, and two ephemeral streams (however one perennial waterbody would be crossed three times accounting for a total of 23 proposed waterbody crossings). Many of these waterbodies are considered sensitive, including one (Jordan River) with impaired water quality for dissolved oxygen and total dissolved solids levels, nine supporting species of special concern, and six designated by Utah as high quality waters. As described in the DEIS, three of the proposed waterbody crossings would use the conventional bore method, two would use the dam-and-pump method, and 18 would use the flume method. The FEIS contains additional discussion related to plans to assess the feasibility of horizontal directional drilling (HDD) at the Northwest Oil Drain and Jordan River crossings. EPA is pleased with the consideration of HDD for the Jordan River crossing, in particular, since this method would reduce impacts to the

already impaired water resource.

We also appreciate that Appendix G, Noxious Weed Control Plan, was revised based on our comments on the DEIS. However, it appears that this plan is still in draft form. We recommend that this plan be finalized and incorporated into the FEIS and/or ROD.

Wetlands:

In response to our comment that FERC should consider and document how Executive Order (EO) 11990, Protection of Wetlands, will be carried out with regard to this project, FERC indicated that the pipeline would be routed, to the degree possible, to avoid and minimize impacts to wetlands, and the right-of-way width in wetlands would be reduced to 75 feet. In addition, Appendix E, Kern River's Procedures and Appendix K, Wetland Remedial Revegetation Plan, describe construction and mitigation measures to reduce wetlands impacts from construction of the pipeline, as well as wetlands restoration requirements to facilitate revegetation.

We support the additional mitigation and maintenance measures that have been incorporated to minimize impacts to riparian areas. These measures include leaving riparian vegetation at a height of two feet within the bankfull channel (and one foot within the floodplain/backwater area), selective planting of tree species, and limiting right-of-way maintenance in riparian areas. We note that Kern River is developing a Supplemental Reclamation Plan to address impacts to riparian habitat from the proposed project as well as areas of the original Kern River pipeline that have not been re-established successfully. We recommend that this supplemental plan be incorporated into the FEIS. While Kern River would monitor wetland revegetation efforts for three years and a remedial vegetation plan would be implemented with continued monitoring if success criteria are not met, the lack of full recovery from construction of the original pipeline further supports EPA's recommendation of a minimum five year monitoring and reporting period.

Hydrostatic Testing: We appreciate the clarification in the FEIS that hydrostatic testing for the proposed project will not occur continuously from November 2010 through October 2011, but rather at discrete times as needed for individual test sections during construction. In addition, discussion was added regarding permit requirements to ensure that base flows would be maintained during the water withdrawal process (including a minimum flow rate of 5 cubic feet per second downstream of the withdrawal location at East Canyon) and that hydrostatic test water would be discharged to a well-vegetated upland area to prevent erosion and decreased water quality.

Vegetation

Due to revisions to the proposed project's route to incorporate the Mueller Park Variation and the North Salt Lake III Variation, vegetation impacts are reduced from that described in the DEIS. EPA appreciates that FERC, through required monitoring reports submitted by Kern

River, would continue to monitor post-construction as long as necessary to ensure that revegetation efforts are successful as described in Appendix D, Kern River Plan, and Appendix E, Kern River Procedures.

Wildlife and Special Status Species

According to the FEIS, Kern River will employ numerous mitigation measures to minimize impacts to the greater sage-grouse, including timing construction to late fall/early winter for a portion of the pipeline that traverses greater sage-grouse habitat. This timing is necessary to avoid impacts on greater sage-grouse during the breeding season. In addition, the FEIS notes that Kern River has agreed to compensatory mitigation for the temporary loss and fragmentation of sagebrush habitats. No details are provided on this "compensatory mitigation." Based on conversations with the U.S. Fish and Wildlife Service, we understand that Kern River has agreed to provide $50,000 to the Utah Division of Wildlife Resources for a multiple year study to collect data specific to a greater sage-grouse population within the Henefer area, including range and habits of this population. While these funds will not directly compensate for potential habitat loss and fragmentation, they will facilitate data collection critical to future habitat protection and restoration efforts. The FEIS should clearly describe the amount of funding to be provided, how Kern River will ensure this funding, and the intentions for its use.

We note that findings are now reported in the FEIS from completed surveys related to the ESA-protected Utah prairie dog (threatened) and pygmy rabbit (petitioned). In addition, discussion has been added regarding the determination that surveys are not required for Ute Ladies'-tresses (threatened) and yellow-billed cuckoo (candidate) due to lack, or avoidance, of potential habitat along the proposed route. However, as noted above, not all surveys were completed for the northern leopard frog (petitioned) due to high flood conditions in locations identified as having potentially suitable breeding habitat. These areas were intended to be resurveyed when flood conditions subsided. The results of these outstanding northern leopard frog surveys, as well as any additional mitigation measures developed with the appropriate State and Federal agencies, should be provided in the FEIS and/or Record of Decision (ROD) for full public disclosure of impacts before construction begins.

Results of raptor nest surveys and related consultations have been provided in the FEIS. Mitigation measures, including pre-construction surveys in Spring 2011, construction timing, and active nest monitoring, have been incorporated into the new Appendix M, Biological Resources Mitigation Plan. However, as noted above, the adequacy of this plan has not been determined by the State and Federal agencies involved in its development. Once this mitigation plan has been agreed upon by the relevant agencies, it should be finalized and incorporated into the FEIS and/or ROD.

Air Quality

We appreciate the revisions to Table 4.11.1-3, Ambient Air Quality Standards, to address previous inconsistencies with the National Ambient Air Quality Standards (NAAQS). We also

appreciate the inclusion of background greenhouse gas concentrations in Table 4.11.1-5, as requested. In addition, the recently promulgated 1-hour SO_2 and 1-hour NO_2 NAAQS should be added to Table 4.11.1-3, and the new Table 4.1.11-10, should include the impacts of the proposed project on these recently promulgated standards.

We note that a dispersion modeling section has been added beginning on page 4-158 of the FEIS. We are pleased that dispersion modeling results for the Elberta, Coyote Creek, and Dry Lake Compressor Station expansions and the new Milford Compressor Station have been provided, as requested. Kern River modeled the impacts on the nearest receptors within 1,000 meters of the compressor station expansions. Please be advised that this is too far from the facility to consider potentially larger impacts at closer distances. In general, modeling receptors should be placed along the facilities' fenceline, or if unknown, at ambient air distances no further than 100 meters from the source(s). However, based on the emissions and modeling data provided, the air quality impacts on nearby receptors from these compressors would be small. Also, for future reference, we recommend that construction emissions be included in such a modeling exercise.

We also reviewed Kern River's June 2010 *Supplemental Responses to EPA Comments on Draft Environmental Impact Statement*, which was intended to address EPA's air quality comments. For your information, we noticed several inaccuracies and omissions in the discussion related to the Utah and Nevada State Implementation Plans (SIPs). For example, the Clark County, Nevada, 8-Hour Ozone Early Progress Plan was developed in 2008 not 1998, and there is no discussion of Salt Lake County's designation as nonattainment for the 24-hour $PM_{2.5}$ NAAQS nor of EPA's December 1, 2009 proposed disapproval of Utah's redesignation request and maintenance plan for the 24-hour PM_{10} NAAQS. Should you decide to incorporate information from Kern River's June 2010 supplemental responses into the FEIS, we recommend verification of the NAAQS nonattainment area designation/ redesignation request dates and status of related EPA actions on the SIPs.

We appreciate the opportunity to review the July 2010 Final Environmental Impact Statement for the Apex Expansion Project. With the exception of the few issues raised above, we believe that our concerns with the March 2010 DEIS have been adequately addressed. If we may provide further explanation of our comments, please contact me at 303-312-6004, or your staff may contact Amy Platt at 303-312-6449.

Sincerely,

Larry Svoboda
Director, NEPA Program
Ecosystems Protection and Remediation